



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6104-99

10 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 23 June 1947 for three years at age 17. The record reflects that you were advanced to PFC (E-2) and served for more than 13 months without incident. However, during the seven month period from July 1948 to February 1949 you received three nonjudicial punishments (NJP) and were convicted by two summary courts-martial. Your offenses consisted of cursing, threatening and failure to obey orders of the shore patrol, a brief period of absence over leave, creating a nuisance on liberty, false official statement, and possession of a forged military identification card.

On 8 March 1949 the commanding officer (CO) recommended you for an undesirable discharge. The CO noted that in addition to the foregoing disciplinary actions you had committed a series of relatively minor offenses for which no action had been taken. Your attitude toward your superiors was one of insolence and your response to orders was slow and unwilling. You had admitted to

going on liberty while under CO's restriction and had failed to respond to either kindly advice or reprimands. You submitted a statement in your own behalf requesting another chance. You said that you realized you had done wrong but did not know that it would lead to an undesirable discharge. You believed most of your trouble was due to your youth and because you "liked a good time" and "would not take anything off anyone."

On 25 March 1949 the Commandant of the Marine Corps directed separation with an undesirable discharge by reason of unfitness due to "repeatedly committed petty offenses not necessitating trial by court-martial." You were so discharged on 1 April 1949.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 50 years since you were discharged. The Board concluded that these factors were insufficient to warrant recharacterization of your discharge given your record of three NJPs and two summary court-martial convictions in only 21 months of service. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded you were guilty of too much misconduct to warrant recharacterization to an honorable or general discharge. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director